THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10084 of 2001

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the respondents 2 to 4 in proposing to auction the lands pursuant to C.E.P.No.2368/2000-2001 dated 17.5.2000 as illegal, arbitrary and without jurisdiction.

It appears that the fourth respondent society advanced agricultural loan to the fifth respondent, to which petitioner stood as a co-obligator. It seems the society approached the second respondent and sought for a Certificate under Section 71 of the A.P. Cooperative Societies Act, 1964. In the proceedings before the second respondent, the petitioner who is a co-obligant was not made as party to the proceedings nor any notice was served on him. While so, the impugned auction notice was issued against the petitioner proposing to auction his lands. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that the respondents 2 and 3 failed to consider the fact that he was not made as party in the application for issuance of Certificate under Section 71 or even in C.E.P.No. 2368/2000-2001. The auction notice was issued in Form No.9 under Rule 52(10) without making the petitioner as party to the proceedings, therefore, the auction sought to be conducted by the respondents is illegal and arbitrary.

There is no dispute that the petitioner was not a party to the application filed under Section 71 of the Act and he was not served with any notice calling upon him to discharge the dues against the loan account of the fifth respondent.

In view of the above, I am of the opinion that the impugned auction notice and the Certificate under Section 71 of the Act are issued in

gross violation of principles of natural justice, therefore, the same are liable to be set aside.

In the result, the writ petition is allowed and the Certificate issued under Section 71 of the A.P. Cooperative Societies Act, 1964 and the consequential auction notice are set aside. No order as to costs.

C.V.RAMULU, J

Date: 28.7.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10084 of 2001

28.7.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10084 of 2001

Dated: 28th July, 2006

Between:

Juvvala Satya Appa Rao

.. Petitioner

and

The Government of Andhra Pradesh,
represented by its Secretary,
Cooperation Department, Secretariat,
Hyderabad & others.

.. Respondents